

**STATE SCHOOL BOARD ELECTIONS AND
FILLING OF VACANCIES**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: James A. Ferrin

LONG TITLE

General Description:

This bill establishes partisan elections and filling of vacancies for State Board of Education members.

Highlighted Provisions:

This bill:

- replaces the existing process for nominating State Board of Education candidates with partisan elections; and
- modifies the process for filling State Board of Education midterm vacancies to include nomination by a political party.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-507, as enacted by Chapter 1, Laws of Utah 1993

20A-5-101, as last amended by Chapter 249, Laws of Utah 2003

20A-6-301, as last amended by Chapter 57, Laws of Utah 2001

20A-6-302, as last amended by Chapter 241, Laws of Utah 2001

REPEALS AND REENACTS:



28 **20A-14-104**, as last amended by Chapter 19, Laws of Utah 2004

29 REPEALS:

30 **20A-14-105**, as last amended by Chapter 315, Laws of Utah 2003

31

Be it enacted by the Legislature of the state of Utah:

32 Section 1. Section **20A-1-507** is amended to read:

33 **20A-1-507. Midterm vacancies in the State Board of Education.**

34 (1) If a vacancy occurs on the State Board of Education for any reason other than the
35 expiration of a member's term[-];

36 (a) the governor, with the consent of the Senate, shall fill the vacancy by [appointment
37 of] appointing a qualified member to serve out the unexpired term[-] if the member leaving
38 office was:

39 (i) elected in a nonpartisan election;

40 (ii) appointed to replace a member elected in a nonpartisan election; or

41 (iii) elected in a partisan election but is unaffiliated with any political party; or

42 (b) the governor shall fill the vacancy by immediately appointing the person whose
43 name was submitted by the party liaison, as defined in Section 20A-1-503, of the same political
44 party as the prior member if the member leaving office was:

45 (i) elected as a political party's candidate in a partisan election; or

46 (ii) appointed to replace a member elected as a political party's candidate in a partisan
47 election.

48 (2) The lieutenant governor shall issue a certificate of appointment to the appointed
49 member and certify the appointment to the board.

50 Section 2. Section **20A-5-101** is amended to read:

51 **20A-5-101. Notice of election.**

52 (1) On or before February 1 in each regular general election year, the lieutenant
53 governor shall prepare and transmit a written notice to each county clerk that:

54 (a) designates the offices to be filled at the regular general election, including state
55 school board offices;

56 (b) identifies the dates for filing a declaration of candidacy for those offices; and

57 (c) contains a description of any ballot propositions to be decided by the voters that
58

have qualified for the ballot as of that date.

(2) (a) No later than February 10, each county clerk shall:

(i) publish a notice once in a newspaper published in that county; or

(ii) (A) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(B) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(b) The notice required by Subsection (2)(a) shall:

(i) designate the offices to be voted on in that election in that county, other than special district offices; and

(ii) identify the dates for filing a declaration of candidacy for those offices.

(3) Before each election, the election officer shall give written or printed notice of:

(a) the date and place of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct; and

(d) the qualifications for persons to vote in the election.

(4) To provide the notice required by Subsection (3), the election officer shall publish the notice at least two days before the election in a newspaper of general circulation common to the area or in which the election is being held.

Section 3. Section **20A-6-301** is amended to read:

20A-6-301. Paper ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all ballots furnished for use at the regular general election contain no captions or other endorsements except as provided in this section;

(b) (i) the ballot contains a ballot stub at least one inch wide, placed across the top of the ballot, and divided from the rest of ballot by a perforated line;

(ii) the ballot number and the words "Judge's Initial ____" are printed on the stub; and

(iii) ballot stubs are numbered consecutively;

(c) immediately below the perforated ballot stub, the following endorsements are printed in 18-point bold type:

(i) "Official Ballot for ____ County, Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the county clerk and the words "county clerk";

(d) each ticket is placed in a separate column on the ballot in the order determined by the election officer with the party emblem, followed by the party name, at the head of the column;

(e) the party name or title is printed in capital letters not less than 1/4 of an inch high;

(f) a circle 1/2 inch in diameter is printed immediately below the party name or title, and the top of the circle is placed not less than two inches below the perforated line;

(g) unaffiliated candidates and candidates not affiliated with a registered political party are listed in one column, without a party circle, with the following instructions printed at the head of the column: "All candidates not affiliated with a political party are listed below. They are to be considered with all offices and candidates listed to the left. Only one vote is allowed for each office.";

(h) the columns containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(i) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(j) the names of candidates are printed in capital letters, not less than 1/8 nor more than 1/4 of an inch high in heavy-faced type not smaller than ten-point, between lines or rules 3/8 of an inch apart;

(k) a square with sides measuring not less than 1/4 of an inch in length is printed at the right of the name of each candidate;

(l) for the offices of president and vice president and governor and lieutenant governor, one square with sides measuring not less than 1/4 of an inch in length is printed opposite a double bracket enclosing the right side of the names of the two candidates;

(m) immediately to the right of the unaffiliated ticket on the ballot, the ballot contains a write-in column long enough to contain as many written names of candidates as there are persons to be elected with:

(i) the offices to be filled printed above the blank spaces on the ticket; and

(ii) the words "Write-In Voting Column" printed at the head of the column without a 1/2 inch circle;

(n) when required, the ballot includes a nonpartisan ticket placed immediately to the right of the write-in ticket with the word "NONPARTISAN" in reverse type in an 18-point solid rule running vertically the full length of the nonpartisan ballot copy; and

(o) constitutional amendments or other questions submitted to the vote of the people, are printed on the ballot after the list of candidates.

(2) Each election officer shall ensure that:

(a) each person nominated by any political party or group of petitioners is placed on the ballot:

(i) under the party name and emblem, if any; or

(ii) under the title of the party or group as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Title 20A, Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight-point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for two or more" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in alphabetical order with the surnames last, except for candidates for ~~[the State Board of Education and]~~ local school boards;

~~[(f) the names of candidates for the State Board of Education are placed on the ballot as certified by the lieutenant governor under Section 20A-14-105;]~~

~~[(g)]~~ (f) if candidates for membership on a local board of education were selected in a primary election, the name of the candidate who received the most votes in the primary election

is listed first on the ballot;

~~[(h)]~~ (g) if candidates for membership on a local board of education were not selected in the primary election, the names of the candidates are listed on the ballot in the order determined by a lottery conducted by the county clerk; and

~~[(i)]~~ (h) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for two or more," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot under the heading "Constitutional Amendment Number ____" with the number of the constitutional amendment as assigned under Section 20A-7-103 placed in the blank;

(b) propositions submitted to the voters by the Utah Legislature are listed on the ballot under the heading "State Proposition Number ____" with the number of the state proposition as assigned under Section 20A-7-103 placed in the blank;

(c) propositions submitted to the voters by a county are listed on the ballot under the heading "County Proposition Number ____" with the number of the county proposition as assigned by the county legislative body placed in the blank;

(d) propositions submitted to the voters by a school district are listed on the ballot under the heading "School District Proposition Number ____" with the number of the school district proposition as assigned by the county legislative body placed in the blank;

(e) state initiatives that have qualified for the ballot are listed on the ballot under the heading "Citizen's State Initiative Number ____" with the number of the state initiative as assigned by Section 20A-7-209 placed in the blank;

(f) county initiatives that have qualified for the ballot are listed on the ballot under the heading "Citizen's County Initiative Number ____" with the number of the county initiative as assigned under Section 20A-7-508 placed in the blank;

(g) state referenda that have qualified for the ballot are listed on the ballot under the heading "Citizen's State Referendum Number ____" with the number of the state referendum as assigned under Sections 20A-7-209 and 20A-7-308 placed in the blank; and

(h) county referenda that have qualified for the ballot are listed on the ballot under the heading "Citizen's County Referendum Number ____" with the number of the county referendum

as assigned under Section 20A-7-608 placed in the blank.

Section 4. Section **20A-6-302** is amended to read:

20A-6-302. Placement of candidates' names on paper ballots.

(1) Each election officer shall ensure, for paper ballots in regular general elections, that:

(a) except for candidates for ~~[state school board and]~~ local school boards:

(i) each candidate is listed by party; and

(ii) candidates' surnames are listed in alphabetical order on the ballots when two or more candidates' names are required to be listed on a ticket under the title of an office;

~~[(b) the names of candidates for the State Board of Education are placed on the ballot as certified by the lieutenant governor under Section 20A-14-105;]~~

~~[(c)]~~ (b) if candidates for membership on a local board of education were selected in a regular primary election, the name of the candidate who received the most votes in the regular primary election is listed first on the ballot; and

~~[(d)]~~ (c) if candidates for membership on a local board of education were not selected in the regular primary election, the names of the candidates are listed on the ballot in the order determined by a lottery conducted by the county clerk.

(2) (a) The election officer may not allow the name of a candidate who dies or withdraws before election day to be printed upon the ballots.

(b) If the ballots have already been printed, the election officer:

(i) shall, if possible, cancel the name of the dead or withdrawn candidate by drawing a line through the candidate's name before the ballots are delivered to voters; and

(ii) may not count any votes for that dead or withdrawn candidate.

(3) (a) When there is only one candidate for county attorney at the regular general election in counties that have three or fewer registered voters of the county who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of county attorney? Yes ____ No ____."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of county attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may he continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for county attorney is printed on the ballot under authority of this Subsection (3), the county clerk may not count any write-in votes received for the office of county attorney.

(e) If no qualified person files for the office of county attorney or if the candidate is not elected by the voters, the county legislative body shall appoint the county attorney as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (3)(f), be placed on the ballot under Subsection (3)(a) has been elected on a ballot under Subsection (3)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (3)(a) shall not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (3)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

(4) (a) When there is only one candidate for district attorney at the regular general election in a prosecution district that has three or fewer registered voters of the district who are licensed active members in good standing of the Utah State Bar, the county clerk shall cause that candidate's name and party affiliation, if any, to be placed on a separate section of the ballot with the following question: "Shall (name of candidate) be elected to the office of district attorney? Yes ____ No ____."

(b) If the number of "Yes" votes exceeds the number of "No" votes, the candidate is elected to the office of district attorney.

(c) If the number of "No" votes exceeds the number of "Yes" votes, the candidate is not elected and may not take office, nor may he continue in the office past the end of the term resulting from any prior election or appointment.

(d) When the name of only one candidate for district attorney is printed on the ballot

under authority of this Subsection (4), the county clerk may not count any write-in votes received for the office of district attorney.

(e) If no qualified person files for the office of district attorney, or if the only candidate is not elected by the voters under this subsection, the county legislative body shall appoint a new district attorney for a four-year term as provided in Section 20A-1-509.2.

(f) If the candidate whose name would, except for this Subsection (4)(f), be placed on the ballot under Subsection (4)(a) has been elected on a ballot under Subsection (4)(a) to the two consecutive terms immediately preceding the term for which the candidate is seeking election, Subsection (4)(a) shall not apply and that candidate shall be considered to be an unopposed candidate the same as any other unopposed candidate for another office, unless a petition is filed with the county clerk before the date of that year's primary election that:

(i) requests the procedure set forth in Subsection (4)(a) to be followed; and

(ii) contains the signatures of registered voters in the county representing in number at least 25% of all votes cast in the county for all candidates for governor at the last election at which a governor was elected.

Section 5. Section **20A-14-104** is repealed and reenacted to read:

CHAPTER 14. ELECTION OF STATE AND LOCAL SCHOOL BOARDS

Part 1. State School Board - Election

20A-14-104. Becoming a member of the State Board of Education -- Declaration of candidacy -- Election.

(1) Beginning with the 2006 election, the office of State Board of Education member is a partisan office, with candidates for office elected in partisan elections.

(2) A State Board of Education member elected or appointed prior to the 2006 General Election shall not be subject to partisan election until the next regularly scheduled election for that office and shall be entitled to serve the full remaining term of the office to which that member was elected or appointed.

(3) A person may become a candidate for the State Board of Education by filing a declaration of candidacy with the lieutenant governor according to the procedures and requirements of Sections 20A-9-201 and 20A-9-202.

(4) Candidates for State Board of Education:

(a) shall comply with the procedures and requirements of Title 20A, Chapter 9,

276 Candidate Qualifications and Nominating Procedures; and
277 (b) are subject to the procedures and requirements for filling candidate vacancies under
278 Section 20A-1-501.
279 Section 6. **Repealer.**
280 This bill repeals:
281 Section **20A-14-105, Becoming a candidate for membership on the State Board of**
282 **Education -- Selection of candidates by the governor -- Ballot placement.**

Legislative Review Note
as of 1-7-05 10:18 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0061

State School Board Elections and Filling of Vacancies

20-Jan-05

1:37 PM

State Impact

No fiscal impact

Individual and Business Impact

No fiscal impact

Office of the Legislative Fiscal Analyst